

whether the indigent's position seems likely to be of substance, (2) the indigent's ability to investigate the crucial facts, (3) whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder, (4) the indigent's ability to present the case or obtain private counsel, (5) the complexity of the legal issues, (6) the availability of counsel, (7) and special reasons why appointment of counsel would be likely to lead to a more just determination.

In Cooper, the court said that only if, after close scrutiny of the merits of the claim, the court finds it to be of substance should the other criteria be considered. 877 F.2d at 172, quoting Hodge v. Police Officers, 802 F.2d 58 (2d Cir. 1986).

The court has reviewed plaintiff's claims and cannot at this time say whether they are likely to be of substance. The court thus does not consider the other factors. The motion for appointment of counsel is denied. The court will reconsider the motion on renewal as the case progresses.

So ordered.

Dated: Brooklyn, New York
August 26, 1998

Eugene H. Nickerson
Eugene H. Nickerson, U.S.D.J.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x

AUBREY ABBENSETTS,

97 CV 7611

Plaintiff,

MEMORANDUM
AND
ORDER

-against

KENNETH S. APFEL,

Defendant.

-----x

AUBREY ABBENSETTS
8924 164th Street, Apt. 3C
Jamaica, New York 11462-0633
plaintiff pro se.

ZACHARY W. CARTER
United States Attorney - EDNY
(Stacy L. Gordon, of counsel)
One Pierrepont Plaza, 14th Fl.
Brooklyn, NY 11201
for defendants.

NICKERSON, District Judge:

Plaintiff pro se brings this appeal for Social Security benefits pursuant to 42 U.S.C. § 405 (g).

Plaintiff now moves for appointment of counsel. Cooper v. A. Sargenti Co., 877 F.2d 170 (2d Cir. 1989), articulates the factors the court must consider before appointing counsel for an indigent litigant: (1)